

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

SHIRLEY V. REMMERT,

Plaintiff,

v.

UNITED STATES DEPARTMENT OF
HOUSING AND URBAN
DEVELOPMENT, et al.,

Defendants.

Case No. [19-mc-80290-CRB](#)

**ORDER SCREENING COMPLAINT
PURSUANT TO 28 U.S.C. § 1915(E)**

The Court is in receipt of Shirley Remmert's Complaint (dkt. 1) and motion for leave to proceed in forma pauperis (dkt. 2). Because the Complaint fails to state a claim upon which relief may be granted, it must be dismissed under 28 U.S.C. § 1915(e)(2)(B)(ii).

A court is required to dismiss a case filed without payment of a filing fee if the action "is frivolous or malicious," "fails to state a claim on which relief may be granted," or "seeks monetary relief against a defendant who is immune from such relief." *Id.* § 1915(e)(2)(B). To make this determination, the court must decide if there is any arguable factual or legal basis for the plaintiff's claims, "however inartfully pleaded." *Franklin v. Murphy*, 745 F.2d 1221, 1227 (9th Cir. 1984). Although pro se pleadings are liberally construed, *Garmon v. County of Los Angeles*, 828 F.3d 837, 846 (9th Cir. 2016), a complaint must be dismissed if it does not set forth "enough facts to state a claim to relief that is plausible on its face." *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007). If a court dismisses a complaint under § 1915(e)(2)(B), the plaintiff may re-file the same complaint if she pays the filing fee. *See O'Neal v. Price*, 531 F.3d 1146, 1154 (9th Cir. 2008).

Remmert's Complaint brings only a single claim: "The failure of the defendants to

1 recognize and join HUD as an indispensable party.” Complaint ¶ 23. She alleges that Defendants
2 failed to bring the Department of Housing and Urban Development into her criminal proceedings
3 in California state court. Id. ¶¶ 6. Remmert alleges this was unlawful because Federal Rule of
4 Civil Procedure 19 requires joinder of indispensable parties. Id. ¶¶ 19–21. But the Federal Rules
5 of Civil Procedure do not apply to criminal proceedings or proceedings in state court. Remmert
6 therefore fails to “state a claim to relief that is plausible on its face.” Twombly, 550 U.S. at 570.
7 Because “it is absolutely clear that the deficiencies of the complaint could not be cured by
8 amendment,” dismissal is with prejudice. Rosati v. Igbinoso, 791 F.3d 1037, 1039 (9th Cir. 2015)
9 (internal quotation marks and citations omitted).

10 **IT IS SO ORDERED.**

11 Dated: June 8, 2020



12 CHARLES R. BREYER
13 United States District Judge
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